IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 1661 of 2000

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 24/11/2000 in WP NO : 15170 OF 1999 on the file of the High Court.)

Between:

1 Railway Protection Force, South Central Railway, rep by its Dy. Chief Security Commissioner, Secunderabad.
2 Railway Protection Force, South Central Railway, rep by its Divisional Security Commissioner, Vijayawada.
3 Railway Protection Force, S.C.Rly., Secunderabad, rep by its Asst.Security Commissioner (South), Vijayawada, Krishna Dist.

..... APPELLANTS

AND

K.Rahuram babu, Sub-Inspector, Railway Protection Force, Diesel Loco Shed, Kazipet.

.....RESPONDENT

Counsel for the Appellants: MR.R.S.MURTHY, S.C.for Railways.

Counsel for the Respondent s: MR.S.R.SANKU

The Court made the following :

J U D G M E N T : (Per G.Bikshapathy,J.)

1. The Writ Appeal is filed against the order passed by the learned single Judge in Writ Petition No.15170 of 1999, dated 6.9.2000. The respondent, who was working as Sub Inspector, Railway Protection Force in South Central Railway, was issued with a charge sheet dated 8.9.1997. Simultaneously, a criminal case in C.C.No.83 of 1996 was also filed before the VII Metropolitan Magistrate for Railways, Vijayawada. However, in the said criminal case, the respondent was acquitted and the same has become final. During this process, the departmental enquiry was almost completed, and at that point of time, the respondent-employee filed the above Writ Petition seeking direction to the authorities not to proceed with the enquiry on the ground that he was acquitted by competent criminal Court on the very same charges. The learned single Judge allowed the above Writ Petition, against which the present Writ Appeal has been filed.

2. In the above Writ Petition, initially interim stay was granted. However, the said order was modified permitting the authorities to proceed with the disciplinary enquiry, but not to pass final orders. Thus, the matter has come up for final hearing today before this court.

3. The learned Standing Counsel Mr.R.S.Murthy appearing for the appellant-Railways submits that the order passed by the learned single Judge is not sustainable inasmuch as the charges are different and the enquiry was almost completed, and at the fag end of the enquiry it was sought to be obstructed by the order passed by the learned Single Judge. He further submits that in view of the modified order of this court, the entire enquiry was completed and only final orders are to be passed. As this court directed not to pass final orders, for want of clearance from this court, final orders are not passed. Under these circumstances, he submits that the order of the learned single Judge is not sustainable in law.

4. The learned counsel for the respondent-employee submits that the very disciplinary proceedings taken up against the respondent-employee were quashed by the learned single Judge taking into consideration the allegations in the criminal case and since disciplinary proceedings are similar and identical, it is not open for the authorities to proceed with the matter further.

5. Inasmuch as the said order assailed before this Court, we are of the considered view that the departmental proceedings should be allowed to be culminated into final order.

6. It is also brought to our notice that the employee may be permitted to take the plea that the criminal Court has acquitted him and the said fact has to be taken into consideration by the disciplinary authorities while dealing with the matter. In view of the fact that the disciplinary enquiry has already been completed and only final orders are to be passed, it would not be appropriate to quash the entire proceedings. The decision relied on by the learned single Judge relates to a case where the enquiry was yet to commence and the disciplinary proceedings are yet to take a final shape. In the instant case, the entire things were completed and final orders are to be passed. Under these circumstances, we are of the considered view that the order of the learned single Judge is not sustainable.

7. In the result, the Writ Appeal is allowed and the order of the learned single Judge is set aside. The appellants are directed to pass appropriate orders in pursuance of the completed departmental enquiry within a period of six weeks from the date of receipt of a copy of this order. However, we make it clear that if the respondent is aggrieved by any order that may be passed in the departmental enquiry, it is open for him to challenge the competency of the authority in conducting and proceeding with the departmental enquiry on the alleged ground of acquittal by the criminal court. It is further

directed that the disciplinary authority shall take into consideration the order of acquittal passed by the criminal court while passing final order in the disciplinary case. No costs.

(G.BIKSHAPATHY,J)

13.07.2004

(B.SESHASAYANA REDDY,J)

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